TRC/MJL 07949-08002

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALLIANZ GLOBAL RISKS U.S. INSURANCE COMPANY, as subrogee of Buffets Holdings, Inc.,	)	
Plaintiff,	)	No.: 07 C 7149
v.	)	
NOVAK CONSTRUCTION COMPANY, an Illinois corporation.	)	
Defendant.	)	

NOVAK CONSTRUCTION COMPANY'S
ANSWER TO PLAINTIFFS' COMPLAINT

NOW COMES Defendant, NOVAK CONSTRUCTION COMPANY, by and through its attorneys, JOHNSON & BELL, LTD., and for its Answer to Plaintiffs' Complaint states as follows:

FACTUAL ALLEGATIONS

1. At all relevant time, Buffets owned and operated an Old Country Buffet restaurant located at 445 East Palatine Road, Arlington Heights, Illinois (hereinafter, the "Restaurant").

ANSWER: Defendant admits the allegations contained in paragraph 1.

2. The Restaurant was located in a shopping mall owned by the Town & Country Plaza.

ANSWER: Defendant admits the allegations contained in paragraph 2.

3. This action arises from a fire at the Restaurant on or about March 12, 2006.

ANSWER: Defendant admits the allegations contained in paragraph 3.

4. At all relevant times, Defendant Novak Construction was an Illinois corporation engaged in providing general contracting services, with its principal place of business at 3423 N. Drake Avenue, 2nd Floor, Chicago, Illinois 60618.

ANSWER: Defendant admits the allegations contained in paragraph 4.

5. Prior to March 12, 2006, Town & Country hired Defendant Novak Construction to act as the general contractor in a remodeling project at the shopping center, including work on the Buffets location.

ANSWER: Defendant admits that it contracted to act as construction manager for certain exterior renovation and construction work at Town & Country, denies the remaining allegations of paragraph 5, and asserts that at the time specified there was construction proceeding involving the Old Country Buffet space with which it had no involvement.

6. During the course of construction, it became necessary to remove signage for the Buffets restaurant.

ANSWER: Defendant admits the allegations of paragraph 6.

7. Novak Construction removed the signage without locking out the circuit for the sign.

ANSWER: Defendant denies the allegations contained in paragraph 7.

8. The circuit was later reenergized, resulting in a fire at the Restaurant.

ANSWER: Defendant admits that there was a fire, but has insufficient knowledge to admit or deny the remaining allegations of paragraph 8.

9. As a result of the fire, Buffets suffered damages in an amount in excess of the jurisdictional limit of $75,000.00.

ANSWER: Defendant admits that there was a fire, but has insufficient knowledge to admit or deny the remaining allegations of paragraph 9.

10. Plaintiff Allianz provided property insurance to Buffets pursuant to Policy No. 3005711.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 10.

11. As a result of the March 12, 2006 fire damage, Buffets made a claim to Allianz under Policy No. 3005711.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 11.

12. Pursuant to its policy of insurance, Allianz was required to pay and did pay to Buffets an amount in excess of $75,000.00.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 12.

13. With that payment, Allianz has become subrogated to the rights of Buffets to the extent of such payment.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 13.

COUNT I – NEGLIGENCE

14. Allianz hereby incorporates by reference paragraph 1 through 13 as if fully stated herein.

15. At all relevant time, Defendant was responsible for performing construction services at the Buffets restaurant.

ANSWER: Defendant denies the allegations contained in paragraph 15.

16. In performing those construction services, Defendant owed a duty to Buffets to act in a safe, careful and workmanlike manner.

ANSWER: Defendant admits all duties imposed by law, denies that paragraph 16 properly states those duties and specifically denies that it owed any duty to Buffets or Plaintiff.

17. Defendant breached its duty to Buffets through the following acts and/or omissions constituting negligence, including but not limited to:

a. improperly removing the signs;

b. failing to inspect the circuit following the removal of the signs to ensure that it was properly locked out;

c. failing to warn Buffets that the sign was improperly removed, so that it could act accordingly to prevent damage to property;

d. failing to observe applicable safely standards in the removal of the sign;

e. failing to properly train its employees in the removal of signs;

f. failing to take all reasonable and necessary precautions to prevent the fire;

g. failing to supervise its employees with respect to the removal of the sign;

h. failing to use due care and safety in performing its work;

i. violating federal, state and local codes, statutes and/or ordinances;

j. any and all other acts and/or omissions constituting negligence, which became known through the course of discovery.

ANSWER: Defendant denies each and every allegation contained in paragraph 17, including subparagraphs a-j.

18. As a direct and proximate result of Defendant's negligence, Buffets suffered damage in an amount in excess of $75,000.00.

ANSWER: Defendant denies the allegations contained in paragraph 18.

19. As a result of this damage, Buffets made a claim to Allianz.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 19.

20. Pursuant to its policy of insurance, Allianz was required to pay and did pay to Buffets an amount in excess of $75,000.00.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 20.

21. With that payment, Allianz has become subrogated to the rights of Buffets to the extent of such payment.

ANSWER: Defendant has insufficient knowledge to admit or deny the allegations of paragraph 21.

WHEREFORE, Defendant respectfully request that this Court enter a judgment in favor of Defendant and against Plaintiff, together with costs, interest, attorney fees, and such other relief as this Court may deem just.

Respectfully submitted,

NOVAK CONSTRUCTION COMPANY,

By: s/ Timothy R. Couture

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